

The Gazette of India

EXTRAORDINARY PART II—Section 3 PUBLISHED BY AUTHORITY

No. 307] NEW DELHI, WEDNESDAY, DECEMBER 9, 1953

ELECTION COMMISSION, INDIA NOTIFICATIONS

New Delhi, the 28th November 1953

S.R.O. 2238.—Whereas the election of Shri Kamta Prasad Saxena, as a member of the Legislative Assembly of the State of Vindhya Pradesh, from the Chandla constituency of that Assembly, has been called in question by an Election Petition duly presented under Part VI of the Representation of the People Act, 1951 (XLIII of 1951), by Shri Raghunath Singh, S/o Shri Kalyan Singh, resident of Gaurihar, District Chhatarpur;

And whereas the Election Tribunal appointed by the Election Commission in pursuance of the provisions of Section 86 of the said Act for the trial of the said Election Petition has, in pursuance of the provisions contained in section 103 of the said Act, sent a copy of its Order to the Commission;

Now, therefore, in pursuance of the provisions of section 106 of the said Act, the Election Commission hereby publishes the said Order of the Tribunal.

IN THE COURT OF THE ELECTION TRIBUNAL, NOWGONG, VINDHYA
PRADESH.

ELECTION PETITION No. 255 OF 1952

PRESENT:

1. Shri S. N. Vaish, B.A., LL.B., Retd. District and Sessions Judge, U.P. *Chairman.*
2. Dr. L. N. Misra, M.A., LL.B., Ph. D., Retd. District and Sessions Judge, U.P., *Member.*
3. Shri P. Lobo, Advocate, Supreme Court, *Member.*
1. Shri Raghunath Singh s/o Shri Kalyan Singh R/o Gaurihar, District Chhatarpur, *Petitioner.*

Vs.

1. Shri Kamta Prasad Saxena S/o Govind Das, R/o Chandla, District Chhatarpur, at present Charkharl Distt. Hamirpur, *Respondent.*

This is an election petition filed by Raghunath Singh calling in question the election of the Respondent who was a Congress candidate and who has been returned to the Legislative Assembly of Vindhya Pradesh from Chandla Constituency which is a single member Constituency. The petitioner prays that the election of the respondent be declared void and that the petitioner be declared duly elected instead. The grounds set forth in the petition and the list of particulars include defective ballot boxes, their tampering, the exercise of undue influence, coercion and intimidation, the non-compliance with the rules and orders by Government servants and other corrupt practices and illegalities to which a detailed reference shall be made presently under the issues.

The Respondent contested the petition by filing a written statement wherein he categorically denied all the grounds for declaring his election to be void but did not file any recrimination in respect of the prayer of the petitioner to be himself declared as duly elected. He pressed, however, that the non-joinder of the two candidates who had withdrawn after scrutiny was fatal to the petition. This issue was thus taken up first along with other legal points in this case, which have been disposed of by a preliminary order dated, February, 20, 1953. We then allowed the parties to give evidence on the following remaining issues which we now take up for disposal:—

REMAINING ISSUES

1. Were the ballot boxes, used in the Election, defective and contrary to the mandatory provisions of law, could they be unlocked and the ballot papers taken out therefrom without their seals being broken and has this resulted in a serious non-compliance with the provisions of the Constitution and the Acts and Rules made for holding Election. If so, how is the petition affected thereby?

2. Are the allegations in clause (b) of para. 6 correct? If so, what is the effect?

3. Was there any non-compliance, on the part of the presiding Officers, with the provisions of Rules 32 and 33 of the R.P.R. 1951 as alleged in clauses (c) and (d) of para. 6 of the petition.

4. Was there any non-compliance with, or breach of, the rules 46 and 50 on the part of the Returning Officer, as alleged in clause (e) of para. 6 of the petition. If so, what is the effect?

5. Were the arrangements for the safe transport of the ballot boxes and papers and for their safe custody, defective as alleged in clause (f) of para. 6 of the petition? And were the ballot boxes etc. in fact approached by various people with ample opportunity to tamper them? If so, what is the effect?

6. Were the ballot boxes tampered with and ballot papers from petitioner's boxes extracted and introduced into these of the Respondent and were fresh and unused ballot papers introduced into the boxes of the Respondent after the closing of the poll and before the commencement of counting with the connivance of the Respondent, his agents and supporters? If so, what is the effect?

7. Are the allegations in clauses (h), (i) and (j) of para. 6 correct? If so, what is the effect?

8. Are the allegations in clauses (l), (m), (n) of para. 6 correct? If so, what is the effect?

9. Did the petitioner receive a majority of valid votes?

10. Are the allegations of corrupt practices in particulars Nos. 1 to 5 of the list correct? If so, what is the effect?

11. To what relief, if any, is petitioner entitled?

FINDINGS

Issues 1, 2, 5 and 6.—We have already held in E.P. 257 of 1952, *Mst. Vidhya Vati Vs. Mahendra Kumar* and in E.P. 259 of 1952, *Jang Bahadur Vs. Basant Lal* that the ballot boxes, even if defective, had not been tampered with. No factual instance in this case too was cited by any petitioner's witnesses to show that tampering as such had taken place.

The petitioner complained that there was delay in the transport of ballot boxes, packets and papers: this delay was said to have been caused by tampering of the ballot boxes at some place or the other but there was no evidence of any tampering as such and moreover the ballot boxes were always under police guard. When one comes to consider the distance covered from the various polling stations to the counting centre in such backward areas, it has to be observed that arrangements were not only adequate but all details connected with the Election were carried out with a certain degree of efficiency. We hold, therefore that the petitioner has failed to prove the allegations in the petition covered by issues 1 to 6.

Issue 7.—The petitioner was unable to adduce any evidence in support of his allegations in clauses (i) and (j) of para. 6 of the petition. Regarding the allegation in clause (h) the contention of the petitioner is indeed amusing. The petitioner alleges that he applied to the Returning Officer to alter the date which had been fixed for repoll. The law on the subject is contained in section 58 R.P. Act, 1951 which requires that the Returning Officer shall as soon as practicable report the necessity for a fresh poll and he shall notify the day appointed and the hour of polling in such a manner as the Election Commission may direct.

The petitioner wanted that the date which had been fixed for repoll, after due compliance with all the rules, including its approval by the Election Commission, should be adjourned because a large number of voters from Mouza Barigarh was to attend a couple of marriages in the vicinity. If domestic occurrences could

freely bring about a change of dates of polling, the Election authorities would be hard-put as to where to stop and where to draw the line, if such childish requests are to be entertained. A large number of witnesses was produced to show that they would have cast their votes but were unable to do so because of their having to attend these marriages. Voters have to decide whether a public duty is to be preferred to a social obligation.

In these circumstances we opine that the Returning Officer had no option to alter the day appointed for the repoll and hold that the petitioner has failed to legally substantiate his petition in this regard.

Issue 8.—Of all the allegations covered by this issue, clause (1) of para. 6 deserves attention. Clauses (m) and (n) of the said para. were not proved and the allegations therein deserve to be labelled as random. In clause (1) it is alleged that various illegalities and irregularities were perpetrated by the V. P. Government officials with the active connivance of the Congress party and its leaders in V.P. and the Respondent. We need confine ourselves only to the respondent and to the engagement by him of zamindars as his polling agents. In fact the petitioner has failed to delineate this corrupt practice in so many words in his petition or in the list of particulars but we are compelled to take notice of this corrupt practice because of the Respondent's admission. We have shown at great length in E. P. 257 of 1952 *Vidhya Vati Vs. Mahendra Kumar* how a zamindar in V.P. is a Government servant and at any rate a village officer as mentioned in Section 123(8) R.P. Act, 1951. In the list of polling agents signed by Gokul Prasad Dehulla, the agent of the Respondent (Ex. 28) some of the polling agents, mentioned in the list as submitted to the Election authorities, consisted of zamindars and Mukhias.

There are quite a number of Respondent's witnesses who state that they had worked as the polling agent of the Respondent, and there is no doubt that these are Government servants within the meaning of section 123(8) *Bijai Singh, zamindar of Mouza Sarwal, R.W. 8 and Malkhan Singh, Mukhia of Mouza Katia, R.W. 10. Bhagwatdin, zamindar of Mouza Gahabra R.W. 21* were the polling agents of the Respondent on his own admission and their assistance was obtained by him.

The Revenue Law applicable to those parts of the constituency where the above mentioned Zamindars and Mukhias worked lays down that Mukhias and zamindars are village headmen, *vide* Revenue Law by Badri Prasad. This was confirmed by Chotey Lal Khare (R.W. 28) who was a Revenue Officer himself. The Registrar Kanoongo, who was examined as a witness by the petitioner had brought the register of the old Barigarh Tehsil of Charkhari Raj and the list of the zamindars and Mukhias of the present Loundi Tehsil. He is P.W. 20. In his evidence he said that the Mukhias and Zamindars get from the Government 5 per cent. of the realisation of the rent made in any village and out of this 5 per cent the zamindar get three and Mukhias two per cent. respectively. Parliament has laid down in section 123 (8) that the obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent any assistance from a village officer is a corrupt practice. We realise that seriousness of this practice was not fully realised in V.P. where the status of the Zamindar appeared to be somewhat nebulous. The petitioner had himself engaged a Zamindar as his polling agent. This, however, should not detract the application of the law and it would be improper to err on the side of leniency when the foundations for what should constitute a free and fair election are being laid in our country. We are, therefore, compelled to hold that the Respondent did commit corrupt practices by seeking the assistance of the Zamindars and Mukhias who are village officers. The influence of these persons is bound to be great in village and that is why the Legislature ruled them out like any other Government Servant.

Issue No. 9.—This issue was not pressed. It would be convenient here, however, to dispose of the prayer of the petitioner that he should be declared duly elected from the said Chauda Constituency. A petitioner can get the election of the respondent declared void if he can succeed in establishing a corrupt practice on the part of the latter. Corrupt practices must primarily be pleaded and proved by the petitioner but in the interests of justice if a corrupt practice comes to the notice of the Tribunal through the admission of the Respondent, the Tribunal is bound to take notice of it, as has been done in this petition. That, however, does not mean that the petitioner will succeed if there is any lacuna on his part in his seeking to be elected. Section 97 of the R.P. Act, 1951, lays down the conditions for reprimination if a seat is claimed. The petitioner did not in so many words bring to light either in his petition or in the list of particulars that the respondent had employed a Zamindar or a Mukhia and thus committed a corrupt practice. Consequently, it was not possible for the returned candidate, to say by way of reprimination, that the election of the petitioner would have been void if he had been returned candidate, because the petitioner also had committed a

similar corrupt practice by employing Zamindars as his polling agents. The respondent rightly contends that he was not given an opportunity as provided for under section 97 to recriminate. Moreover, the petitioner who claims the seat himself, should, we consider, be prepared to show that but for the acts of the respondent he would have received a majority of votes recorded. This he failed to do. His prayer for being declared to be duly elected from the Chandla Constituency must, therefore, be rejected. The issue is decided against him.

Issue No. 10.—This issue is wholly confined to the list of particulars showing details of corrupt practices.

The first particular speaks of the respondent and his agents and supporters hiring and using bullock carts for carrying the voters from their houses to the polling stations of Sachhari and Jaretha on the days of polling. This is said to be a corrupt practice under section 123(6). A team of witnesses was produced to show that voters had been taken in carts as alleged but not a single instance was cited as to show which particular voters were carried to a polling booth. In fact this information should have been in the list of particulars. This particular has, therefore, not been proved.

The allegation in the second list of particulars is that the respondent along with his agents, workers, and supporters obtained and procured the assistance of the Sub-Inspector incharge of the police station Chandla and Shri Chhote Lal, the then Land Record Officer of Satna, for the furtherance of the prospects of his election; and that these two officers generally canvassed and influenced the voters on behalf of the respondent. Further that these officials had indulged in these activities two weeks prior to the Election date. This is another of those allegations which are easy to make but difficult to substantiate. None of the petitioner's witnesses brought to prove these allegations corroborated one another, vide P.W. 10, P.W. 12, P.W. 21, P.W. 23, P.W. 25 and P.W. 27; indeed P.W. 23 is a turn coat as he was the polling agent of the respondent. This particular too must be held not to have been proved.

The third list mentions assistance obtained and procured by the respondent from the patwaris of villages Hatwaha and Sarwal. The witnesses produced by the petitioner to prove this particular are P.W. 23, P.W. 24, P.W. 26, P.W. 28 and P.W. 29. The evidence of P.W. 23 can be discarded for the reasons mentioned above. There is nothing to show, however, why the evidence of the remaining witnesses should not be believed as to the canvassing of Mohan Patwari of Sarwal in the company of Radhika Prasad Zamindar, whom we have discussed in issue No. 8. Radhika Prasad has gone into the witness box (R.W. 8) and strangely enough he does not even refute the alleged activities of Mohan Patwari, who lives in his house. This is also true of the respondent who did not deny the alleged activities of this patwari except in a general way by saying that he (the Respondent) did not commit any corrupt practice. It is, unfortunately that this respondent denied the signature of Gokul Prasad Dehulia whom he had specially authorised to file the list of his polling agents in the office of the Returning Officer. His answers in cross-examination are worth reproducing verbatim. "There are about 8 major corrupt practices. There are 1001 minor corrupt practices. Gokul Prasad Dehulia did work for me during the elections. He worked only as my messenger. I did not know if a candidate was required by Rules to file the appointment forms of his polling agents in triplicate along with a list of the names of those polling agents in the office of the Returning Officer a few days before the polls. I do not remember if I had received from Returning Officer's office an intimation that I should submit the appointment forms of my polling agents in triplicate along with their list in the office of the Returning Officer four or five days before the polls or not. I did read once the R.P. Act and the Rules framed under that Act. I did appoint my polling agents. I must have filed a list of my polling agents in the office of the Returning Officer if one was required under the Rules I cannot state if Ex. 28 is the list of my polling agents which is filed in the office of the Returning Officer or not. Gokul Prasad Dehulia did file the list of my polling agents in the office of the Returning Officer with my authority to sign the same. I cannot state if Ex. 28 bears the signature of Gokul Prasad Dehulia or not". In passing it may be mentioned that this respondent is a law Graduate and was elected as the Popular Minister for Cherkhari State and later as the Premier of Vindhya Pradesh, Bundelkhand Division, prior to the formation of the present State of V.P. In spite of all these offices, predilection for truth does not yet seem to be a characteristic of the respondent unfortunately. We are constrained to hold, therefore, that the respondent did commit a corrupt practice by obtaining and procuring the assistance of Mohan Patwari for the furtherance of the prospects of his election. There was no proof forthcoming as to the allegations regarding the Patwari of Hatwaha.

In list No. 4 the allegation is that the Chaukidar posted at polling station, Barigarh was near the ballot boxes and he directed the voters to put their ballot papers in the ballot boxes bearing the symbol of a pair of bullocks. It was said that he committed this in connivance with and at the instance of the respondent and his agents and was a direct interference with the free exercise of the electoral right of the voters. The two witnesses (P.W. 3 and P.W. 9) who were to substantiate this allegation were unable to show any part played by the respondent in this questionable activity, even if true. This particular must be held not to have been proved.

The particular mentioned as No. 5 was not pressed.

To answer the issue we hold that a corrupt practice was committed with regard to particular No. 3 by the respondent.

ORDER

We order that as the respondent committed corrupt practices by employing Zamindars, Mukhlis and a Patwari for the furtherance of his prospects at the election his election be declared void. The Respondent will pay Rs. 300 to the petitioner as costs.

ANNEXURE

(Sd.) SHEO NARAIN VAISH, *Chairman.*

(Sd.) L. N. MISRA, *Member.*

(Sd.) P. LOBO, *Member.*

ANNEXURE

IN THE COURT OF THE ELECTION TRIBUNAL NOWGONG V. P.

PRESENT:

1. Shri S. N. Vaish, B.A., LL.B., Retd. D. & S. Judge, U.P., *Chairman.*
2. Dr. L. N. Misra, M.A., LL.B., Ph.D. Retd. D. and S. Judge, U.P., *Member.*
3. Shri P. Lobo, Advocate Supreme Court, *Member.*

ELECTION PETITION No. 255 of 1952

Shri Raghunath Singh s/o Shri Kalyan Singh r/o Gourihar, District Chhatarpur, *Petitioner.*

Vs.

Shri Kamta Parsad Saxena, *Respondent.*

This is a petition under section 81 of the R.P. Act, 1951 for the declaration of the election of the Respondent from the Chandla constituency to the Vindhya Pradesh Legislative Assembly void and for the further declaration of the petitioner himself as duly elected from the aforesaid constituency. The Petitioner alleges that he was a duly nominated candidate at the election from the said constituency which is a single member constituency and the Petitioner and the Respondent along went to the polls but the Respondent was declared elected. Grounds on which this petition is based are set out in detail in the petition. The Respondent contests the petition. The pleadings of the parties gave rise to several issues out of which the following preliminary issue has been taken up for disposal first.

Issue No. 12.—Is the non-joinder of Shri Ram Bharose Rastogi and Shri Randhir Singh fatal to the petition?

FINDINGS

It is admitted by the parties that Ram Bharose Rastogi and Randhir Singh filed their nomination papers at this election and those nomination papers were, on scrutiny, accepted by the Returning Officer but subsequently within the prescribed time, these two candidates withdrew their nominations. Divergent observations of the various Tribunals on the point whether a withdrawn candidate is a duly nominated candidate at the election within the meaning of section 82 of the Act were presented to us by Learned Counsel for the parties. Assuming for the sake of arguments that withdrawn candidates are duly nominated candidates at the Election within the meaning of section 82, we have today held in Election Petition 303 of 1952 (Saraju Parsad Namdeo vs. Gopal Saran Singh and others) that the provisions of section 82 are merely directory. We have further held therein that the question whether non-joinder of any candidate as Respondent to the petition is fatal to the petition or not will depend on the answer to, a further question whether the Tribunal can, or can not, grant the relief sought, behind the back of such candidates without causing any detriment to their interests. Applying this test to the present case we observe that Ram Bharose Rastogi and Randhir Singh had withdrawn their nomination within the prescribed time knowing full well that the nomination papers of the petitioner and the Respondent

had been accepted by the Returning Officer, thus leaving the field open only to the petitioner and the Respondent who then contested the Election. They, therefore, lost all interests in the Election and have no cause for complaint even if, in place of the Respondent, the petitioner is declared elected by this Tribunal and the relief sought in this petition can be granted by the Tribunal without jeopardising their interests. We, therefore, hold that the non-joinder of Ram Bharose Rastogi and Randhir Singh is not fatal to this Petition.

(Sd.) SHEO NARAIN VAISH, *Chairman*.

(Sd.) L. N. MISRA, *Member*.

(Sd.) P. LOBO, *Member*.

The 20th February, 1953.

[No. 19/255/52-Elec.III/7619.]

S.R.O. 2239.—Whereas the election of Shri Basant Lal, as a member of the Legislative Assembly of the State of Vindhya Pradesh, from the Malehra constituency of that Assembly, has been called in question by an Election Petition duly presented under Part VI of the Representation of the People Act, 1951 (XLIII of 1951), by Shri Jang Bahadur Singh, s/o Shri Pratap Singh, resident of Nowgong;

And whereas the Election Tribunal appointed by the Election Commission in pursuance of the provisions of Section 86 of the said Act for the trial of the said Election Petition has, in pursuance of the provisions contained in section 103 of the said Act, sent a copy of its Order to the Commission;

Now, therefore, in pursuance of the provisions of Section 106 of the said Act, the Election Commission hereby publishes the said Order of the Tribunal.

IN THE OFFICE OF THE ELECTION TRIBUNAL, NOWGONG VINDHYA PRADESH.

ELECTION PETITION No. 259 OF 1952

PRESENT:

Chairman

1. Shri S. N. Vaish, B.A., LL.B., Retd. Distt. & Sessions Judge, U.P.

Members

2. Dr. L. N. Misra, M.A., LL.B., Ph.D., Retd. Distt. & Sessions Judge, U.P.
3. Shri P. Lobo, Advocate, Supreme Court.

1. Shri Jang Bahadur Singh, s/o Shri Pratap Singh, r/o Nowgong at present Chhatarpur, District Chhatarpur—*Petitioner*.

Vs.

1. Shri Basant Lal, s/o Shri Chandra Bhan, r/o Village Sanwara, P.O. Malehara, District Chhatarpur. (Congress).
2. Shri Kundan Lal, s/o Shri Permanand, r/o Bakswaha, Distt. Chhatarpur.
3. Shri Durag Singh, s/o Shri Mukund Singh, r/o village Dargawan, P.O. Malehara, District Chhatarpur.
4. Shri Ram Raja, s/o Shri Udet Singh, r/o village Maval, P.O. Malehara, District Chhatarpur.
5. Shri Chhote Lal, s/o Mukand Lal, r/o Katra Ward, Chhatarpur—*Respondents*.

This is an election petition filed by Jang Bahadur Singh calling in question the election of the Respondent No. 1 who was a congress candidate and who had been returned to the Legislative Assembly of V.P. from Malchhara constituency which is a single member constituency. The petitioner prays that the Election of the Respondent No. 1 as well as the election as a whole in this constituency be declared void on the grounds set forth in the petition and the list of particulars including defective ballot boxes, their tampering, the exercise of undue influence, coercion and intimidation, the enlisting of assistance of Government servants including Zamindars for the furtherance of the prospects of the Respondent's election, the non-compliance with the rules and orders by Government servants, the improper acceptance of the nomination of the Respondent No. 1 and the other corrupt practices and illegalities to which a detailed reference shall be made presently under the issues.

The Respondent No. 1 alone contested the petition by filing a written statement wherein he categorically denied all the grounds for declaring the election to be void and pressing that certain matters be not allowed to go to trial. Issues were thus struck, out of which Nos. 11(b), 13 and 14 were first heard and disposed of in our order, dated January 24, 1953. As a result of our findings on the said preliminary issues and within the limits specified therein, evidence was, however, allowed to be given on the following remaining issues which we now take up for disposal:—

ISSUES

1. Were the ballot boxes, used in the Election, defective and contrary to the mandatory provisions of law; could they be unlocked and the ballot papers taken out therefrom without their seals being broken and had this resulted in a serious non-compliance with the provisions of the Constitution and the acts and Rules made for holding Elections. If so, how is the petition affected thereby?

2. Are the allegations in clauses (b) to (d) of para. 6 correct? If so, what is the effect?

3. Was there any non-compliance, on the part of the presiding officers with the provisions of Rules 32 and 33 of the Representation of the People's Rules, 1951, as alleged in clauses (e) and (f) of para. 6 of the petition?

4. Was there any non-compliance with or breach of the Rules 46 and 50 on the part of the Returning Officer as alleged in clause (k) of para. 6 of the petition? If so, what is the effect?

5. Were the arrangements for the safe transport of the ballot boxes and papers and for their safe custody defective as alleged in clause (g) of para. 6 of the Petition? And were the ballot boxes etc. in fact tampered with and ballot papers extracted and introduced as alleged in clause (i) of para. 6 of the petition? If so, what is the effect?

6. Are the allegations in clause (j) of para. 6 of the petition correct? If so, what is the effect?

7. Are the allegations in clause (1) of para. 6 of the petition correct? If so, what is the effect?

8. Was the Respondent No. 1 Chairman and Shareholder of any corporation in Malehra in which the V.P. Government had a financial interest and if so was he disqualified from being chosen as a Member of the Assembly?

9. Was the nomination paper of Respondent No. 1 improperly accepted? And has the result of the election been materially affected thereby?

10. Are the allegations in clauses (p) to (r) of para. 6 correct? If so, what is the effect?

11(a). Is the return of election expenses false in material particulars and has it not been filed in the prescribed manner? If so, what is the effect?

12. Are the allegations in particulars Nos. 1 to 5 of the list correct? If so, what is the effect?

15. To what relief if any is the petitioner entitled?

FINDINGS

Issues Nos. 1 to 5.—The allegations to which these issues gave rise are to be found mostly in clauses (a) to (i) of para. 6 of the petition. The gravamen of the charge made by the petitioner is that these ballot boxes were defective in their very constructions and this defect lent itself to tampering with the contents of the ballot boxes.

It is admitted that the ballot boxes used in Vindhya Pradesh were the Godrej type ballot boxes and not of the other type called the U.P. type. These boxes have been manufactured by the Godrej Company on a large scale and are all similar and identical in make. Jai Singh (P.W. 9) in Election petition No. 258 and Jang Bahadur Singh petitioner himself as P.W. 47 in E. P. No. 257 have demonstrated, before this Tribunal that these boxes can be opened without affecting the paper seal or the wax seal on the twine which is used, under the Rules and Instructions issued by the Election Authority, for fastening the end of the window cover with the knob. Jai Singh opened the box by using a crochet needle and with it drawing the cord through the window by slightly shifting the paper seal and then by pulling that cord; while Jang Bahadur Singh did so by applying a slight pressure with one thumb at the centre between the two perpendicular ends of the knob and rotating the knob with the other thumb and first finger. Both had first un-twisted the wire and removed it and then, with a needle shifted the

knots of the twine nearest to the wax seal affixed close to the loose ends of the twine. For the sake of brevity the method adopted by Jang Bahadur Singh may be called the pressure method. By this method the box is opened without at all touching the paper seal or even the window in which the paper seal is located. A minute scrutiny of the ballot box reveals that the dog which has been used in these ballot boxes is so thin that a slight pressure at the centre of the knob creates a space between the lid of the box and the inner disk of the knob with the result that the dog, (which is virtually the lock of the box) passes into that space and releases the knob free for being rotated with the other thumb and forefinger and the box is un-locked. This is an intrinsic or inherent defect in the frame of these boxes and will continue till the bolt is made so thick as not to pass into the space created, as aforesaid, by the pressure at the outer centre of the knob.

Rule 21(1) of the Representation of the People (Conduct of Election and Election petition) Rules, 1951 (to be referred to in future as R.P.R.) provides as follows:—

“Every ballot box shall be of such design and colour as have been previously approved by the Election Commission. It shall be so constructed that ballot papers can be introduced therein but can not be withdrawn therefrom without the box being unlocked and the seals being broken”.

The second sentence of this Rule clearly shows that the approval of the design of a ballot box by the Election Commission is not the final word on the point. The design can be shown to be not in compliance with the provision of this sentence in this Rule. It is, therefore, found that the Godrej type ballot boxes are not in compliance with the provisions of the second sentence of Rule 21(1) of the R.P.R.

Ex. 92 is the brochure which contains the detailed and exhaustive instructions for presiding officers. Para. 28(a) of this brochure reads as below:—

“(a) Take signatures or seals of the polling agents and affix your own on the paper seals, and then fix the paper seals in position.

N.B.—(i) Do not use a damaged paper seal under any Circumstances.

(ii) See that signatures of the polling agents tally with their signatures on their declarations in form 6.

(iii) The seals should be affixed after the paper seal has been placed in position; otherwise it will not be possible to insert the paper seal into the slot with seals on. If, however, only signatures are given by the polling agents this may be done even before the paper seal is fixed in position. Fold over the shorter part of the paper seal and gum or seal it to the longer part thereof over the cage for the paper seal so that the extra length of the longer part will hang inside the ballot box. The seals or the signatures of the polling agents and of yourself will be affixed to this hanging part of the paper seal”.

Then para. 28(c) reads as follows:—

“Then secure each box in the polling position, making sure that the slit is fully open in each box.

(i) Make sure that the knob is not turned twice, in which case the slit will get close and no ballot paper can be inserted.

(ii) Pass a piece of wire through the hole so as to secure the rotating window cover to the knob. Twist the ends of the wire together as much as possible so as to prevent the window cover from being displaced by any mischief maker. Also pass a piece of twine through the holes and seal up the free ends together leaving the knots free. Your own seal will be sufficient for such sealing”.

Para. 29 of the brochure then mentions that the ballot boxes are now ready for polling. Para. 29 of the same brochure then reads as follows:—

“When all the voters present have finished casting their votes, you will have to bring the ballot boxes out of the Assembly polling compartment and close their slits and finally seal and secure them in the presence of the polling agents for the Assembly candidates.

(a) See that your seal on the thread securing the window cover to the slit controlling device is intact. Even if it is not intact, open the window cover by breaking the thread, and see that the paper seal is intact. Show the polling agents that the paper seal is intact. If it is not,

the polling will have to be held again under the Returning Officer's Order. If it is intact, turn slit controlling device to the right until the slit is fully closed. Check that the knob does not turn either way thereafter. Turn the window again and secure it to the slit controlling device in the same manner as you did at the commencement of the poll".

In addition to the abovementioned instructions some further instructions were issued to the presiding officers in this state and they are marked Ex. 71/1 in Election Petition No. 257 of 1952 and para. 1 of these instructions reads as follows:—

- "(i) After the closure of the polling the slit of the ballot box will be closed and the lid moved to close the paper seal. Then wire will be inserted. In addition to this a piece of thread should be inserted through the holes and both the ends tied together. Then those pieces of thread should be sealed with the wax on the lid of the box. The Returning Officer, before opening the box will satisfy himself that the wax seal is intact".

The following points emerge from a careful study of the instructions quoted above:—

- (1) The Election Authority issuing the instructions had assumed this type of ballot boxes to be fool proof so far as the locking device in these boxes is concerned and this is the reason why the candidates and their agents were required to sign or seal only the paper seal. Entire importance was thus confined to the paper seal in the window being intact, the re-poll being provided only in case of the paper seal having been broken.
- (2) The free ends of the thread or twine were to be sealed with wax on the lid leaving the knots free.

Considering the facts that the upper surface of the vertical parts of the knob and the rotating window cover, through the holes of which the thread or the twine is to be inserted and tied up, is 0.9 inches higher than the upper surface of the lid, there is bound to be a distance of at least 1 inch between the wax seal and the knots of the twine or thread, in case the seal is fixed on the lid closest to the juncture of the window cover and the knob. That distance would be at least $2\frac{1}{2}$ inches in case the seal is fixed on the raised border of the lid, as was done by Sheo Kumar Lal, (P.W. 10 of Election Petition No. 257 of 1952) one of the presiding officers. These boxes were all well polished and because of the polish the wax seal was bound to be detached from the lid without its being at all broken by the slightest jerk or it could very easily be detached therefrom without being at all broken as has been admitted before us by Shri K. C. Tiwari, the Returning Officer and Deputy Commissioner, Chhatarpur. The knots can very easily be shifted with a needle from the juncture of the window cover and the knob closest to the wax seal and then the window cover can be shifted away from the knob which can then be turned round by the pressure method detailed above due to the intrinsic defect in the make of the dog and the box can be opened easily and thereafter closed without at all affecting the wax seal and even touching the window.

Had the Election Authority been alive to this inherent defect, the instructions would certainly have been different.

Shri K. C. Tiwari aforesaid who appears to be a very shrewd and intelligent officer had to admit that if the wax seal was affixed in accordance with para. 1 of Ex. 71/1 detailed above, there was bound to remain a distance between the seal and the knots. He further had to admit that in case the seal was not quite close to the knots these boxes could be opened without affecting the paper seal or the wax seal.

Rule 21(5) of the R.P.R. provides that the "paper seals or the other seals used in a ballot box shall be affixed in such manner that it shall not be possible to open the box again without breaking such paper seal or other seals or any thread on which the other seals have been affixed."

It is, therefore, further found that because of the inherent defect in the frame of the Godrej type ballot boxes, in the face of the instructions to Presiding Officers Ex. 92 and 71/1 aforesaid, which appear to have been issued in ignorance of that defect such boxes could be opened without breaking the paper seal or the wax seal or the thread or twine and, consequently, it is held further that in the V.P., there has been a non-compliance with the provisions of the Rule 21(5) of the R.P.R. in the affixing of the seals.

But mere non-compliance with the provisions of the R.P.R. about the frame of the ballot boxes and about the affixing of the seals, is no ground for declaring the election of a returned candidate to be void. Under section 100(2)(c) of the R. P. Act, it lay upon the petitioner to establish that the result of the election has been materially affected by such non-compliance.

It is contended by the petitioner's Counsel that on the 24th January, 1952, a telegram Ex. 45 was sent to the Election Commission informing them that the ballot boxes could be opened without affecting the seal and that they should be rapped up with cloth, that similar written requests (Exs. 41 to 43 and 44) were made to 9 presiding officers between 25th January, 1952 and 29th January, 1952 and it was demonstrated to 3 Presiding officers that the boxes could be so opened but that no heed was paid thereto. It was hardly possible for the presiding officers to act contrary to the written instructions given to them by the Election Authorities of the State. It is more than likely that if any unwary presiding officer was taken in to accept the petitioner's suggestions, there might have been a justifiable complaint from some other quarter that the officer had acted contrary to the instructions. There is nothing on the record to show that the inherent defect in the boxes was brought to the notice of the Election Commission or of the Chief Electoral Officer of the state before 25th January, 1952 when the polls, in this state, were to commence, in order to enable them to issue the necessary instructions in time.

The petitioner's learned counsel relies on Exs. 25, 28 to 30, 33, and 36 to 39, copies of the entries in the general diary, and contends that those entries in the general diary show that the ballot boxes of certain polling stations had reached the police station late. He further contends that from this late arrival of the boxes at the police stations it should be presumed that the delay was due to tampering with boxes. But Ex. 93 of E. P. No. 257 of 1952 is the programme for the transport of the ballot boxes in this district and with parties consent it has been read as evidence in this case also. It clearly shows that the petitioner's constituency was a dacoity and forest area and the polling parties were specially directed not to remain outside polling stations in Bhagawan area unless S.A.F. Guard patrolled that area. The petitioner has not examined any presiding officer or polling officer nor has he brought to our notice anything to show that the ballot boxes of any polling stations had remained unguarded by the police or detained unduly at any place during transit and that they were accessible to any person for tampering. Under such circumstances no presumption of tampering can be drawn.

It is, therefore, held that the result of the election has not been shown to have been materially affected by any non-compliance with the provisions of the R.P.R. It is, further held that the election of the contesting Respondent cannot be declared void merely on the ground of any inherent defect in the ballot box or on account of any non-compliance with the R.P.R. The petitioner's learned counsel had not pressed before us any other allegations out of those mentioned in clauses (b) to (i) and (k) of para. 6 of the petition, in other words, any other of these issues. These issues are, therefore, decided against the petitioner.

Issues No. 6 and 7.—These issues have not at all been pressed before us and they are therefore decided against the petitioner.

Issues No. 8 and 9.—These issues can be disposed of on a short point. The petitioner's Counsel conceded that the syndicate of which the petitioner was a Chairman was registered as a Co-operative Society. Hence, under section 8(2), the contract even if any, between the syndicate and the Vindhya Pradesh Government is exempted from the operation of section 7(d) of the R. P. Act. Both issues are, therefore, decided against the petitioner.

Issues No. 10 and 12.—The allegations relating to these issues are to be found in para. 6(p), (q) and (r) of the petition and in particulars 1 to 5 of the corrupt and illegal practices. The petitioner has produced a mass of evidence to show that a number of zamindars was employed by the Respondent not only in canvassing for him but some of them actually worked as his polling agents. The petitioner has been able to show, in support of the latter allegations, receipts for payment made by the Respondent to those who worked as his polling agents (*vide* Exs. 7/5 to 7/9). The Respondent made a feeble attempt to show that in some cases the payment was not made by him or that the particular zamindar did not work as his polling agent. There is irrefutable evidence from the Respondent's own papers, *viz.* list of polling agents filed before the Returning Officer before the polls. Exs. 4 and 5 to show that the following zamindars of the villages of the former Panna state, Ram Prasad, Tika Ram, Jaggannath,

Duli Chand, Gulab Singh, Nathu Ram and Chandra Bhan who was in addition a Cattle-pond keeper and this was affirmed by Respondent's own witness, Nand Kishore, R.W. 11 to be a Government servant. These Zamindars were so described in a Government Register produced by Jageshwar Prasad P.W. 2. It cannot be denied that these zamindars did canvass and worked as polling agents for the Respondent. It is, therefore, necessary to determine what is the legal effect of their employment: does it in fact amount to corrupt practice; and if so, how does it affect this petition. In the list of the corrupt and illegal practices furnished by the petitioner along with his petition the allegation is contained in particular No. 2: (to the effect) that throughout the constituency the Patel and zamindars who are village headmen, at the instance of and in connivance with the respondent, canvassed for him. This is said to be a corrupt practice under section 123(8) of the R. P. Act which runs as follows:—

"The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person with the connivance of a candidate or his agent, any assistance for the furtherance of the prospects of the candidate's election from any person serving under the Government of India or the Government of any state other than the giving of vote by such person."

Explanation (b) of that clause provides that for the purposes of this clause a person serving under the Government of any state shall include.....the village headmen or any other village officer by whatever name is called, employed in that state, whether the office he holds is a whole time office or not but shall not include any person (other than any such village officer as aforesaid) who has been declared by the state Government to be a person to whom the provision of this clause shall not apply.

The petitioner's learned counsel argued that the zamindar is a person serving under the Government of Vindhya Pradesh and he is a village officer if not village headman, employed in this state. In support of this proposition, the Revenue Administrations Manual of Goudge who prepared it for the late Panna Raj was produced. The Revenue Law of Panna State held good at the time of these elections also in this Tahsil (*vide* the statement of Shri Shushil Chandra Misra R.W. 27) at page 6 of this Manual para. 10 mentions that the zamindar will be considered a Headman of the village. The duties of the zamindars are also defined in this Manual as follows:—

- (i) To collect the state demands on account of Revenue, cess, and taqavi etc. in accordance with the procedure laid down by the Darbar and to deposit the money in Tahsil Treasury.
- (ii) To report to the Quanoongo all encroachments on the state waste land and the destruction or removal of, or injury to, the boundary pillars or any other mark erected by the state.
- (iii) To help the Tahsildar in supply of Rasad and carry out all other orders of the Darbar and the Tehsildar in connection with land Revenue and Agricultural operations for the interest of the tenants.

From this it can be safely concluded that the Zamindars of those villages in this constituency which belonged formerly to Panna Raj would have to be reckoned as Government servants. This being the case we must find that the employment of such Government servant in any regard comes within the ambit of section 123(8) and its consequent mischief. Even if there is some doubt as to whether the zamindar was actually employed or not, and in this particular petition there is no doubt whatever, even the attempt to obtain or procure the assistance of such a Government servant has been made a corrupt practice. We are not unmindful of the fact that in this state a large number of Zamindars were employed by all the political parties as their polling agents. This, however, cannot prevent the application of the law.

It was argued by the Respondent's Counsel that the polling agent does not further the prospects of the candidate's election which is a necessary ingredient of the corrupt practice under section 123(8). This is difficult to accept. The polling agent is certainly an Agent and no better analogy of an Agent can be given than that found in an old English Case, *Wigan* 08 M. & H. F. 1(2) and reproduced in *Sen & Poddar's Indian Election cases* (1951) at page 1020, where the candidate is compared to the owner of a yacht which he hires with its captain and crew. The candidate takes his seat in that yacht and entrusts his election voyage to the care of the captain and crew, his agents. The crew may row to safety or to peril. But the furtherance of the candidate's prospects is certainly entrusted to the

care of such agents. The very fact that the polling agent can successfully challenge elections likely to cast their votes in favour of a rival candidate is positive proof that a polling agent does advance the cause or further the prospects of his candidate. Recent decisions of some other Tribunals were brought to our notice in which it was held that a polling agent does not advance or further the prospects of his candidates: but, in the light of the above discussion, it is difficult to hold that a polling agent's only duty is to see that there is a fair and free election. The Act or Rules also nowhere so restrict a polling agent's duty. Considering that the candidate is held responsible for the acts of his agents, this is an indication of the extent to which law regards him as representing the candidate whose success he can either make or mar. Parker in his "Election Agents and Returning Officer" 5th edition puts it very succinctly, when describing the origin and status of polling agents, that the principal function of a polling agent is to detect personation in the polling stations. It is, therefore, necessary to hold that the Zamindars who worked as polling agents did render the candidate liable under section 123(8). By Section 123(8) the Legislature has eschewed every type of Government servants from rendering any sort of assistance for the furtherance of the prospects of a candidate's election and the utmost that a Government servant can do is to cast his vote. It is, therefore, found that the employment of the Zamindars by the Respondent No. 1 did amount to a major corrupt practice on his part under section 123(8) of the R. P. Act.

Another approach to this very question of zamindars was put forward by Shri K. L. Misra, Advocate General of U.P. He submitted that it was necessary for the petitioner to establish that the Revenue Law under which the Zamindars were appointed and which provided for their duties had received the sanction and authority if not the stamp of the V.P. State. The political and legal history of these 35 Indian States which now comprise the present State of Vindhya Pradesh was traced. Mr. Misra tried to show that on the formation of this new state of V.P., the laws of the old states could only remain operative if they had received legal recognition from the successive Government. According to Mr. Misra there was no such recognition. This proposition, however, could not be accepted in view of the ruling in A.I.R. 1953 Supreme Court 394. This was a case from Vindhya Pradesh which incidentally touched on the very question before this Tribunal. Applying the principles laid down by the Privy Council in one Moore's Indian Appeals 175. Their Lordships of the Supreme Court held that in the normal course, and in the absence of any attempt to introduce uniform legislation throughout a State, the pre-existing laws of the various component states would continue to be in force. By the instrument of Accession executed by the Raj Pramukh of the united states of Vindhya Pradesh on 20th July 1948, and by the agreements of the merger, dated 28th December, 1949 between the Raj Pramukh of Vindhya Pradesh and the Governor General of India, it was clear that so far as the Revenue Laws of these parts were concerned there was no change and they remained in tact. It must be remembered that each state had its own Revenue Laws. Subsequently legislation and the coming of the Constitution had made no change in these Revenue Laws.

In these circumstances there is no force in the contention of Mr. Misra that the Revenue law under which zamindars were appointed had not received any legal recognition from successive Governments. We have dealt with this point about zamindars at some length in E. P. No. 257 of 1952 Vidya Vati Vs. Mahendra Kumar, dated 10th November, 1953.

There was a host of other officials mentioned in the petition as having assisted the Respondent to succeed at the election; and for that purpose, they had not only canvassed on behalf of the Respondent but committed corrupt practices and exercised undue influence. The petitioner has failed to substantiate such reckless allegations which are all the more regrettable as the petitioner is a practising lawyer. He tried to link up some previous political demonstration known as 'Charu Agitation' for which he had been prosecuted, with the alleged prejudice, at present, of all the executive against him. Nothing can be more far fetched. It is significant that the petitioner did not even spare the then Chief Commissioner, who was in all probability doing his round of duties on the eve of the election to see that every thing was in order. None of the other allegations in clauses (p) to (r) of para. 6 of the petition or in the list of particulars 1 to 5 have been pressed and it is, therefore, found that all those other allegations have not been proved.

Issue No. 11(a).—The first portion of this issue has already been decided in our order, dated January 24, 1953 which debarred the petitioner from giving evidence about the return of election expenses being false in material particulars.

No defect in the filing of the return has been pointed out by the petitioner's Counsel and this issue is, therefore, decided against the petitioner.

Issue No. 15.—Because of the findings on issues No. 10 and 12 detailed above, that the corrupt practice specified in section 123(8) of the R.P. Act has been committed by the returned candidate namely the Respondent No. 1, by obtaining the assistance, for the furtherance of the prospects of his election, from the zamindars of the villages (Detailed above) of Panna Raj who are village officers employed in the State, the petitioner is entitled to a declaration that the election of the Respondent No. 1 is void.

The Respondent No. 1 has not paid the costs of witnesses, Shri J. P. Khare, District Agriculture Officer, Shahdol amounting to Rs. 51/3/- and that of Shri Jamuna Prasad Shrivastava, Co-operative Inspector, Rewa, amounting to Rs. 40/4/- in spite of several reminders given to his counsel and under the circumstances we have to incorporate the order about the payment of that sum in the final order of the petition.

The 10th November, 1953.

(Sd.) SHEO NARAIN VAISH.

(Sd.) L. N. MISRA.

According to the findings of the majority of the members.

ORDER

The election of the Respondent No. 1 is declared void. The Respondent No. 1 has been found guilty of the corrupt practice specified in section 123(8) of the R. P. Act. The Respondent No. 1, shall pay to the petitioner Rs. 200 as costs. Shri J. P. Khare District Agriculture Officer, Shahdol, V.P. shall realise Rs. 51/3/- and Shri Jamuna Prasad Shrivastava District Co-operative Inspector, Rewa shall realise Rs. 40/4/-, from the Respondent No. 1 as their travelling allowance for giving evidence for the Respondent by executing this order. The Respondent shall bear his own costs.

NOWGONG;

The 10th November, 1953.

(Sd.) SHEO NARAIN VAISH, *Chairman.*

(Sd.) L. N. MISRA, *Member.*

(Sd.) P. LOBOE, *Member.*

DISSENTING JUDGMENT

Issue Nos. 1, 2 and 5.—It is my view that there has been no defect in the design or manufacture of the ballot boxes. One of the two persons viz., Jang Bahadur Singh who demonstrated before the Tribunal how the ballot boxes could be opened without damaging any of the seals or breaking the twine admitted that if the wax seals were put quite close to the knots of the twine on the lid then it would be impossible to open the box in the manner he and his companion Jai Singh did. I have discussed this at some length in E. P. No. 257 of 1952, Vidya Vati Vs. Mahendra Kumar, dated 10th November 1953. As there is no inherent or intrinsic defect in the manufacture of the ballot boxes I hold that non-compliance with any election law or rule has not been established.

Issue No. 7.—I am of the opinion that the disqualifications for the membership of a State Legislature as laid down in R. P. Act, 1951 are not applicable to Part C States. There has been a special enactment in this regard by Parliament called Part C States Act, 1951 which derives its force from Art. 240 of the Constitution.

Moreover in Section 8 of the Part C States Act 1951, Part II of the R. P. Act 1951, has been deliberately omitted. With this statutory omission, there is no point in looking at the scheme and framework of the R. P. Act, 1951 or of the Part C States, Act, 1951. I have dealt with this aspect of the law in E. P. No. 257 of 1952, Vidya Vati vs. Mahendra Kumar, dated 10th November, 1953. Further discussion is unnecessary as I hold that the petitioner has failed to show any legal basis of his allegation.

Dated, 10th November, 1953.

(Sd.) P. LOBOE, *Member.*

ANNEXURE
IN THE COURT OF THE ELECTION TRIBUNAL NOWGONG V.P.
PRESENT
Chairman

1. Shri S. N. Vaish.

Members

2. Dr. L. N. Mishra, M.A., LL.B., Ph.D.
3. Shri P. Lobo, Advocate, Supreme Court.

ELECTION PETITION No. 259 OF 1952

1. Shri Jang Bahadur Singh—*Petitioner.*

Vs.

1. Shri Basant Lal.
2. Shri Kundan Lal.
3. Shri Durag Singh.
4. Shri Ram Raja.
5. Shri Chhotey Lal—*Respondents.*

ORDER

This is a petition, under section 81 of the R.P.A. of 1951, filed by the petitioner, Jang Bahadur Singh challenging the election of the Respondent No. 1 to the Legislative Assembly Vindhya Pradesh from the single Member Malhera constituency and also the election as a whole. The ground on which the petition has been based are defective ballot boxes, tampering with them, undue influence, non-compliance with the rules and orders by Government officers and other illegalities and corrupt practices on the part of the Respondent No. 1 as set forth in the petition and its list in detail.

The Respondent No. 1 alone contests the petition on the various ground set forth in the written statement denying all the allegations put forth by the petitioner. He has further alleged reasons why certain matters mentioned in the petition should not be allowed to go to trial.

From the pleadings of the parties various issues were framed out of which the following have been first taken up for the decision:—

11(b). Should the petitioner be debarred from producing evidence about the return being false by reasons of his failure to give full particulars as required by section 83(2) of the Representation of People Act?

13. Have the petition and the list of particulars not been verified? If so, what is the effect?

14. Are the allegations in clauses (d), (e), (f), (g), (i), (j), (n), (o), (p), (q), (r) and (u) of para. 6 too vague and general? And should they be expunged and not be allowed to go to trial?

FINDINGS

The petitioner's allegations is contained in clause (s) of para. 6 of the petition which reads as follows:—

"Because the return of election expenses filed by the Respondent No. 1 is false in material particulars and has not been filed in the manner prescribed."

The Respondent No. 1 contends that this allegation is vague and general and the petitioner has not given, in the list appended to the petition, any particulars of the items in the return on the basis of which he has made this charge against the Respondent No. 1.

The term "corrupt practice" has been defined in section (2) (c) of the R. P. Act 1951, as follows:—

"Corrupt practice means any of the practices specified in section 123 or in section 124".

Section 124(4) constitutes the making of any return of election expenses which is false in material particulars a corrupt practice. Section 83(2) provides that the petition shall be accompanied by a list setting for the full particulars of any corrupt practice which the petitioner alleged. It is thus obvious that the petitioner was

bound to give, in the list, full particulars of this corrupt practice alleged by him and thus, so far as the commission of this alleged corrupt practice is concerned, the Tribunal is of the opinion that petitioner cannot be allowed to produce evidence about the return being false in material particulars.

Issue No. 13.—Section 83 R. P. Act, 1951, provides that the petition and the list shall be verified in the manner laid down in the C.P.C. for the verification of pleadings Order 6 rule 15 (2) C.P.C. provides as follows:—

“The person verifying shall specify, by reference to the numbered paragraphs of the pleadings, what he verified of his own knowledge and what he verifies upon information received and believed to be true.”

The petitioner has verified the contents of paragraphs 6 (a) to 6 (b) of the petition and contents of the list partly on personal knowledge and partly on information received and believed by him to be true. The aforesaid provisions of the C.P.C. required verification by reference to the numbered paragraphs of the pleadings and not “sentence wise”. If the petition and the List contain certain paragraphs which have several sentences the contents of some of which are based on petitioner's personal knowledge and others on information received and the petitioner has mentioned that such paragraphs are partly based on personal knowledge and partly on information received and believed to be true, he has, in the opinion of the Tribunal, substantially complied with the provisions of the C.P.C. and the petition and the List have been properly verified.

Issue No. 14.—Regarding these allegations in these clauses of para. 6 we find that there is material both in the petition and in the List which when taken together, gives sufficient notice to the Respondent as to the charges which he has to meet and therefore they can go to trial. We are of the opinion that they are not vague and general and should not be expunged but allowed to go to trial.

NowGONG, V.P.;

The 24th January, 1953.

(Sd.) SHEO NARAIN VAISH, *Chairman.*

(Sd.) L. N. MISRA, *Member.*

(Sd.) P. LOBO, *Member.*

[No. 19/259/52-Elec.III/7616.]

By Order,

P. R. KRISHNAMURTHY, *Asstt. Secy.*

